

Pro Se 1 (Rev. 09/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

JULIO B. LEIVA

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Department of Correction, et al

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>JULIO B. LEIVA</u>
Street Address	<u>1 Harvard Rd P.O. Box 8000</u>
City and County	<u>Shirley - Worcester ss</u>
State and Zip Code	<u>MA 01464</u>
Telephone Number	<u>(508) 740-7660</u>
E-mail Address	_____

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed. See EX A

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Defendant No. 1

Name Douglas W. DeMoura
Job or Title (if known) Superintendent at MCI Cedar Junction
Street Address P.O. Box 100
City and County S. Walpole - Norfolk ss
State and Zip Code MA, 02071
Telephone Number _____
E-mail Address (if known) _____

Defendant No. 2

Name Stephen Burnette
Job or Title (if known) Food Director at MCI C-3
Street Address P.O. Box 100
City and County S. Walpole - Norfolk ss
State and Zip Code MA 02071
Telephone Number _____
E-mail Address (if known) _____

Defendant No. 3

Name Lt. Foley
Job or Title (if known) Kitchen Lieutenant at MCI C-3
Street Address P.O. Box 100
City and County S. Walpole, - Norfolk ss
State and Zip Code MA 02071
Telephone Number _____
E-mail Address (if known) _____

Defendant No. 4

Name Steven Silva
Job or Title (if known) former Superintendent at SBCC
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address (if known) _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case. 42 USC § 1983 ; R.U.U.I.P.A. ; 1st Amendment ; 8th Amendment ; 14th Amendment

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) _____, is a citizen of the State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of the State of (name) _____. Or is a citizen of (foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy-the amount the plaintiff claims the defendant owes or the amount at stake-is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

This complaint is to redress the deprivation under color of law, for willfully, intentionally and unconstitutionally interfering, blocking Plaintiff's 1st and 8th Amendment right to freedom of religion, to petition the government and to be free from cruel and unusual punishment due to the defendants placing undue burdens on Plaintiff's religious exercise, denying grievance process and contact with embassy, and subjecting to corporal punishments, using kosher diet to deny food, denying basic medical
see EX A verified complaint

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages. Expectation Damages, Actual Damages in the amount of \$100,000.00 from each defendant individually, presumed Damages due to tortious acts this is to include declaratory and injunctive relief and punitive damages to discourage the abuse. These acts are still ongoing Plaintiff keeps on submitting grievances to continue record. See EX A

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V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7-4-20

Signature of Plaintiff

Printed Name of Plaintiff

By: [Signature] (agent)
JULIO B. LEIVA

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address